

## **Child Support**

Child support is mandatory in all actions involving minor children. Petitioners with minor children must include an order for child support, even if the other parent is unemployed or cannot be found.

Under State Laws, a standard uniform guideline is used to determine child support payment amounts. It is based on the incomes of both parents and the amount of time each parent spends with the children. The guidelines do provide for add-on amounts for the following:

- Child care costs
- Health care and health insurance cost
- Cost of special educational or other needs of a child
- Travel-related expenses for visitation

Follows the guideline amounts and will automatically compute it for you. However, parents can either increase or decrease the statutory guideline amount if the following conditions are met:

1. Both parents acknowledge that they are fully informed of their rights pursuant to California law and that the amount of child support is being agreed to without coercion or duress,
2. Both parents declare that the agreed amount is in the best interest of the children and the children's needs will be adequately met by the agreed amount, and
3. For welfare recipients, the right to support has not been assigned to the county pursuant to Section 11477 of the Welfare and Institutions Code, and no public assistance application is pending by either parent.

Child support orders can be modified at any time in case of special circumstances or substantial changes in the income of a parent. The parties can agree in writing to the changed amount or can motion the court to change the amount. You should seek an attorney to change the amount in the future if needed.

Any order for child support payments must include an order for the assignment of wages, unless it is agreed in writing that no wage assignment will be filed with an employer if the spouse is not in arrears by more than a specified time or is current on his/her payments.

The commencement date of child support is normally fixed at a date when it is anticipated that the judgment dissolving the marriage will be signed by the court, even though the parties will not legally be divorced for yet another 6 months. If the entry of judgment is delayed for some reason, e.g., a hearing is set or respondent opposes the action, then an application expediting the payment of child support can be filed with the court.

If a parent does not pay child support or is late significantly, he or she can be sued for contempt of court, have wages attached, have tax refunds attached, or have driver's licenses blocked.

## **Marital Support (Alimony)**

Marital support, also known as "alimony". Marital support is not mandatory in most states. However, if the circumstances are such that a spouse will face hardships if he or she does not receive financial support after the divorce, then marital support should be considered. The deciding factor regarding marital support is the need to maintain the spouse at his or her customary standard of living. In other words, the law recognizes that a wife (or husband) should not be forced to live at a level below that enjoyed during the marriage.

However, other factors also need to be considered. For example, marital support would most likely not be considered if:

1. The marriage was for a short duration (under two or three years), and
2. Both spouses are employed and self-sufficient.

This does not mean that the parties cannot agree on marital support, which the court is, more or less, bound to accept.

Marital support can run for an unlimited period, subject to the death or remarriage of the recipient spouse, or it can be fixed to terminate on a specific date.

Child support payments take precedence over marital support. However, there is no firm dollar figure that is used for spousal support. This amount should be decided by both parties to the action. The amount payable can be up to 40% of the paying spouse's net income after deducting child support, less 50% of the amount of the supported spouse's net income if the supported spouse is working.

Marital support can be waived by the recipient spouse, but it should be in writing signed by both spouses. If the higher income earner is the petitioner for the divorce, it is generally not enough to simply allege in the divorce petition that the other spouse waives spousal support. The other spouse must acknowledge the waiver in writing. If the lower income earner is the petitioner for divorce, then the waiver can be included in the petition, and subsequently entered into the judgment.